THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5042 OF 2006

-

Dated: 16-03-2006

-

Between

Dr. Raheem Quadri,

S/o. Dr. G.A. Quadri,

Occ: Bone Setting Profession,

R/o. H.No.23-6-1029/4,

Shahalibanda,

Hyderabad.

...PETITIONER

AND

Municipal Corporation of Hyderabad

Rep. by its Commissioner, having

Head Office at Tank Bund, Basheerbagh,

Hyderabad.

...RESPONDENT

ORDER:

-

-

Petitioner seek a Writ of Mandamus to declare the action of the respondents dated 10.03.2006 in threatening to demolish the property of the petitioner bearing Municipal No.20-5-96 corresponding to old No.256, admeasuring 85 sq. yards and Municipal No.20-6-426 & 427 consisting of ground, first, second and third floors admeasuring
102.8 sq. yards both situated at Rooplal Bazar Lane, Shahalibanda, Quazipura, Hyderabad as illegal and arbitrary.

Heard the learned counsel for the petitioner as well as the learned standing counsel for the respondent.

Learned counsel for the petitioner submits that the petitioner is the absolute owner and possessor of building bearing Municipal
No.20-5-96 corresponding to old No.256, admeasuring 85 sq. yards and Municipal No.20-6-426 & 427 consisting of ground, first, second and third floors admeasuring 102.8 sq. yards both situated at Rooplal Bazar Lane, Shahalibanda, Quazipura, Hyderabad vide Gift Settlement Deed vide registered Document No.852/2003 dated 30.07.2003 in respect of the first property and Gift Settlement Deed vide registered Document Nos.868/2003 dated 31.07.2003, 1414/2004 dated 03.12.2004 and 871/2003 dated 01.08.2003 in respect of the second property. While so, on 10.03.2006 the respondent on the instigation of the locality people visited the properties of the petitioner and threatened to demolish the same on the pretext of widening the road.

The main grievance of the petitioner is that the respondent has not issued any notice before deciding to demolish the said properties and they are trying to demolish the properties for the purpose of widening the road without acquiring the property as contemplated under Chapter V of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act') or under the Land Acquisition Act, without following due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating land acquisition proceedings, which action is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondent to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of a number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,

the writ petition is disposed of directing the respondent not to demolish or take away any portion of the properties of the petitioner without following due process of law either under Section 146 or 147 of the Act or by way of private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

_____

V. ESWARAIAH, J

March 16, 2006

Note: Furnish C.C. of the order by 17.03.2006

(**B**/**o**)

DSK